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FLOOR DEBATE

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SENATOR CHAMBERS: ...especially for a "nondriving" related offense? You think they're not going to drive to school, they're not going to drive to work if they have a job? Because this goes up to anybody who is under 21 years old. It can be somebody as old as 20. So you allow a drunk driver an opportunity to drive to work; nothing for these young people whose license is suspended for something not even related to driving. But how will it look on his or her record? Driver's license suspended. You're going to try to get a job where maybe driving is a part of it. You have a suspended driver's license and, beyond that, you may have been arrested for driving under suspension. Thank you, Mr. President.

PRESIDENT MAURSTAD: Thank you, Senator Chambers. (Doctor of the day introduced.) For debate on the motion to bracket LB 114, Senator Quandahl.

SENATOR QUANDAH: Thank you, Mr. President and members of the Legislature. I obviously rise to oppose Senator Chambers' motion to bracket LB 114, and in support of that I guess I'd offer a couple of things. In Senator Chambers' opening he made some comments about the constitutionality of this bill, and I guess I'd like to...to bring us around and actually focus us on the statutes as they exist in the state of Nebraska. He talked about presumptions and, actually, if...if you would crack Nebraska statutes, Nebraska Revised Statute 27-303, it's actually Rule 303 of the rules of evidence, provides specifically in our statutes for presumptions as they relate in criminal cases. As a matter of fact, it goes on and it explains what a judge is to do when presented with a statutory case of a criminal presumption, which is what LB 114 would create. Let me read from that. In subsection (2), the judge is not authorized to direct the jury to find a presumed fact against the accused, and if you'd go on and you'd read, what Rule 303 actually says is, is that there are plenty of safeguards that a criminal defendant can raise and a judge is not authorized to actually direct that that fact be found against the accused. The burden remains on the prosecutor to prove the case beyond a reasonable doubt and that burden always stays there and a conviction will not be had unless that burden is met. And so that...for that reason I guess some of the comments and some of the commentary